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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/438,431	11/12/1999	PHILIPPE CHARAS	040010-491	9310

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ERICSSON INC.  
6300 LEGACY DRIVE  
M/S EVR C11  
PLANO, TX 75024

EXAMINER

SALAD, ABDULLAHI ELM I

ART UNIT	PAPER NUMBER
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2157

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DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/438,431

Applicant(s)

CHARAS ET AL.

Examiner

Salad E Abdullahi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-10 and 15-25 is/are rejected.
- 7) ☒ Claim(s) 5, 6 and 11-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4&amp;9</u> . | 6) <input type="checkbox"/> Other: _____  |

**Response to Amendment**

1. The Amendment filed on 12/10/2003 has been entered and made of record.
2. Applicant's arguments filled on 12/10/2003 with respect claims 1-3 and 7-10 and 15-25 have been fully considered but they are not persuasive for the following reasons.

Applicant alleges "there is no suggestion by Dalton that the calling party may choose between network-terminating devices"

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the end device choosing between network-terminating device) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, Dalton discloses a system where a service point selects appropriate network-terminating device or which of plurality of network terminating device are capable of terminating a call from a calling party (see col. 5, lines 16-19 and col. 11, lines 39-46).

***Allowable Subject Matter***

3. Claims 5-6 and 11-14 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-3 and 7-10 and 15-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gossett Dalton, Jr. et al., U.S. Paten No. 6,426,955.

As per claims 1, 7, 15 and 21, Gossett Dalton, Jr. et al., disclose a system of selectively accessing a network, comprising the steps of:

- determining whether an end device has access to said network, capable of communicating with one or more access network terminating devices each said

- access network-terminating device being coupled to an associated access network device and each said access network being communicably coupled with said IP network(see col. 4, lines 43-60, col. 5, lines 3-43 and col. 4, lines 43-60);
- confirming the availability of said one or more access network terminating devices, determining the access capability of each of said one or more access network terminating devices, said access capability comprising one or more predetermined factors (see col. 5, lines 3-43 and col. 12, lines 11-20);
  - comparing the determined access capability for each of said one or more access network terminating devices with a preferred access capability being associated with said end device (see col. 18, lines 39 to col. 19, line 10 and 17, line 61 to col. 64); and
  - selecting at least one of said one or more access network terminating devices to provide an optimum connection to said network, wherein the access capability of said selected network terminating device is ranked highest according to said predetermined factors (see col. 11, lines 39-60 and see col. 5, lines 3-43).

Gossett Dalton, Jr. et al., is silent regarding: wherein said end device is coupled to an indirect interface utilizing (i.e. Blue tooth protocol).

Nonetheless, the utilization of indirect interface such Blue tooth protocols would have been an obvious modification to Gossett Dalton, Jr. et al., system. Furthermore, Gossett Dalton, Jr. et al., discloses the end user system may be coupled to the terminating device utilizing variety of protocols obviously including Blue tooth protocol. In addition, a variety of conventional radio links may be utilized linking the end user and the

terminating device. One particularly advantageous radio link is the Blue tooth radio link which offers the end user system variety of QOS services including security. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize Blue tooth protocols, because one of the advantages of using Blue tooth wireless communication is that it possesses a built-in security which is advantageous in voice applications as may be used utilized by the end user systems.

In considering claims 2 and 8 Gossett Dalton, Jr. et al., disclose a system further comprising the step of configuring said end device according to the access capability of the selected at least one of said one or more access network terminating devices (see col. 11, lines 39-60 and see col. 5, lines 3-43).

In considering claims 3, 9 and 10 Gossett Dalton, Jr. et al., disclose a system wherein said predetermined factors of said one or more access network terminating devices comprise cost of access, coverage area, bandwidth delay, priority level and Quality of Service (QoS)(see col. 11, lines 39-60 and see col. 5, lines 3-43)

In considering claim 17, Gossett Dalton, Jr. et al., disclose a system, wherein said access network terminating devices provide a communication link with the Internet (see fig. 1, element 102).

In considering claim 18 Gossett Dalton, Jr. et al., disclose further comprising means for communicating over a direct interface (see fig. 1, element 105).

In considering claims 19 and 20, Gossett Dalton, Jr. et al., disclose a system, wherein said end device can communicate simultaneously over variety of interfaces that obviously may include a cellular interface (see fig. 1).

In considering claim 22 Gossett Dalton, Jr. et al., further comprising the step of continuing, after said connecting step, to identify access network terminating devices available to said end device (see col. 19, lines 10-52 and col. 20, line 35 to col. 21, line 66).

In considering claim 23, Gossett Dalton, Jr. et al., further comprising the step of: determining if said access capability information associated with a newly identified access network terminating device provides a better match with said stored user preferred access capability information than said selected network terminating device (see col. 19, lines 10-52 and col. 20, line 35 to col. 21, line 66).

In considering claim 24, Gossett Dalton, Jr. et al., further comprising the step of selectively changing said connection to said network, from said selected access network terminating device to said newly identified access network terminating device

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based on a result of said determining step(see col. 19, lines 10-52 and col. 20, line 35 to col. 21, line 66).

In considering claim 25, Gossett Dalton, Jr. et al., discloses system, wherein the step of transferring further comprises the step of offering the end user a foreign agent (see col. 19, lines 10-52 and col. 20, line 35 to col. 21, line 66).

6. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gossett Dalton, Jr. et al., U.S. Paten No. 6,426,955 as applied to claim 1.

As per claims 14 and 16, although Dalton, Jr. et al., discloses substantial features of the claimed invention as discussed above with respect to claim 1.

Gossett Dalton, Jr. et al., is silent regarding: utilizing of the well known protocol such as Blue tooth protocol.

Nonetheless, the utilization Blue tooth protocols would have been an obvious modification to Gossett Dalton, Jr. et al., system. Furthermore, Gossett Dalton, Jr. et al., discloses the end user system may be coupled to the terminating device utilizing variety of protocols obviously including Blue tooth. In addition, a variety of conventional radio links may be utilized the link between the end user and the terminating device. One particularly advantageous radio link is the Blue tooth radio link. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize Blue tooth protocols, because one of the advantages of using Blue tooth wireless



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communication is that it possesses a built-in security which is advantageous in voice applications as may used utilized the end user systems.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

### **CONCLUSION**

8. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abdullahi E. Salad** whose telephone number is **(703) 308-8441**. The examiner can normally be reached on Monday to Friday from **8:30 AM to 5:00 PM**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Etienne, Ario** can be reached at **(703) 308-7562**. Any inquiry of

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a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

**Any response to this action should mailed to:**

Box AF

Commissioner of Patents and Trademarks


Washington, DC 20231

**or faxed to:**

**(703) 872-9306**

**As**

2/16/2004

  
ARIO ETIENNE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100